Office Supreme Court, U.S.
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ALEXANDER L. STEVAS,
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No. 80-737

IN THE

Supreme Court of the United States

October Term, 1980

CITIZENS AGAINST RENT CONTROL/ COALITION FOR FAIR HOUSING, an unincorporated association; MASON-McDUFFIE, a California corporation; BERKELEY BOARD OF REALTORS, a California nonprofit association; BETTY GERITZ; MURIEL ROSENKRANZ; EVA FLOYSTRUP,

Appellants,

vs.

CITY OF BERKELEY, CALIFORNIA, a municipal corporation; THE BERKELEY CITY COUNCIL; THE BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION; PATRICIA DEVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER, DAVID B. ROSENTHAL, as members of the Berkeley Fair Campaign Practices Commission,

Appellees.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF CALIFORNIA

JOINT APPENDIX

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APPEAL DOCKETED November 5, 1980
PROBABLE JURISDICTION NOTED February 23, 1981

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ENDORSED
FILED
Apr 6 1977
RENE C. DAVIDSON, *County Clerk*
LOUIS HURLEY, *Deputy*

In The Superior Court of the State of California

FOR THE COUNTY OF ALAMEDA

CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING, an unincorporated association, MASON MCDUFFIE, a California Corporation, BERKELEY BOARD OF REALTORS, a California non-profit association, BETTY GERITZ, MURIEL ROSENKRANZ and EVA FLOYSTRUP,
Plaintiffs,

vs.

CITY OF BERKELEY, CALIFORNIA, a municipal corporation; THE BERKELEY CITY COUNCIL; THE BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION; PATRICA DEVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER, DAVID B. ROSENTHAL, as members of the Berkeley Fair Campaign Practices Commission and DOES I through XX, inclusive,
Defendants.

NO. 493837-0

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiffs and each of them allege as follows:

FIRST CAUSE OF ACTION

DECLARATORY RELIEF

1. Plaintiff CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING (hereinafter "CARC") is an unincorporated association duly organized and existing under and by virtue of the laws of the State of California and the laws of the City of Berkeley, and, as such, is doing business within the City of Berkeley and the County of Alameda.

2. CARC is organized with more than 1,300 individual supporters, many of whom own real property for both residential or rental purposes in the City of Berkeley, and who are registered voters in said City (see attachment to Exhibit I hereto).

3. CARC is a "committee" registered pursuant to and in accord with Section 402 of the Berkeley Election Reform Act of 1974, as amended, (hereinafter "the Act") and pursuant to California Government Code Sections 84100-84101.

4. Plaintiffs BETTY GERITZ, MURIEL ROSENKRANZ, and EVA FLOYSTRUP are contributors to CARC and are owners of real property in the City of Berkeley, and Plaintiffs BETTY GERITZ and MURIEL ROSENKRANZ are registered voters of Berkeley.

5. Plaintiff BERKELEY BOARD OF REALTORS is composed of approximately 450 members who are residents of or who conduct business within the City of Berkeley, and who own real property for rental purposes in Berkeley and on January 17, 1977, contributed the sum of $5,000 to CARC, in support and furtherance of its objectives. (See Declaration attached hereto as Exhibit H).

6. Plaintiff MASON-MCDUFFIE sells, exchanges, rents, insures, and owns real property in the City of Berkeley, and on January 17th contributed the sum of $1,000 to CARC in support and furtherance of its objectives. (See Declaration attached hereto as Exhibit G).

7. Defendant CITY OF BERKELEY is a Charter City organized and existing under the Constitution and laws of the State of California. Defendant BERKELEY CITY COUNCIL was

and now is the duly elected legislative body of the City of Berkley and the body charged by law with enforcing the Act. Defendant BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION (hereinafter "FCPC") is a commission of appointed Berkeley citizens created by the Act and is charged, among other things, with enforcing the provisions of said Act. Defendants PARTICIA DEVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER and DAVID B. ROSENTHAL are duly appointed members of the FCPC.

8. Plaintiffs lack information and belief as to the true names and capacities of defendants DOES I through XX and for that reason sue said defendants by fictitious names. Plaintiffs are informed and believe and thereon allege that each of said defendants DOES I through XX have now or will in the future participate in or contribute to endorsement of the Act and cause plaintiffs to be deprived of their constitutional rights as hereinafter set forth.

9. On June 4, 1974, the City of Berkeley by vote of the people enacted the Berkeley Election Reform Act of 1974. The Act to the extent legally enforceable became effective on July 5, 1974; in pertinent part, it reads as follows:

> Sec. 205. "Committee" means any person or combination of persons that directly or indirectly receives contributions which total more than $250 in a calendar year for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of one or more candidates, or the passage or defeat of any measure, including any committee or subcommittee of a political party.
>
> Sec. 206. "Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates or the qualifications for the ballot or voter approval of one or more measures . . .

Sec. 212. "Expenditure" means a payment, pledge or promise of payment of money or anything of value or other obligation, whether or not legally enforceable, for goods, materials, services or facilities in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or adoption of one or more measures . . .

Sec. 217. "Measure" means any City Charter amendment, ordinance or other proposition submitted to a popular vote at an election, whether by initiative, referendum or recall procedure or otherwise, or circulated for the purposes of submission to a popular vote at any election, whether or not the proposition qualifies for the ballot.

Sec. 219. "Persons" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.

Sec. 602. No person shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support of or in opposition to a measure to exceed two hundred and fifty dollars ($250).

Sec. 604. If any person is found guilty of violating the terms of this chapter, each campaign treasurer who received part or all of the contribution or contributions which constitute the violation shall pay promptly, from available campaign funds, if any, the amount received from such persons in excess of the amount permitted by this chapter to the City Auditor for deposit in the General fund of the City.

Sec. 111. If any provision of this ordinance, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this ordinance are severable.

10. On April 19, 1977, a general election will be held in the City of Berkeley. Proposition "B" on the April 19th ballot is a proposed amendment to the Berkeley City Charter, imposing "Rent Control." A copy of Proposition "B" is attached hereto as Exhibit "C" and incorporated herein by this reference. If approved (and legally enforceable), this measure would place severe restrictions on the rights of property owners, including plaintiffs herein, to determine proper rental rates for properties which they own and which are located within the Berkeley city limits. Plaintiffs further believe that Proposition "B", if approved, would severely affect and diminish plaintiffs' property rights and the value thereof, and interfere with the conduct of plaintiffs' businesses, and create serious social and economic problems for the City of Berkeley and its citizens as described in greater detail hereafter.

Plaintiffs and each of them desire to maintain control over their aforesaid properties and businesses, prevent the diminution in value thereof and avoid the harmful effects that Proposition "B" would have on Berkeley. For these and other reasons, plaintiffs oppose the passage of Proposition "B."

11. Plaintiffs are informed and believe that supporters of Proposition "B," acting individually and through the Berkeley Housing Coalition Committee, have been and will continue to conduct an active, far-reaching and intensive campaign in support of the ballot measure, including distribution of campaign literature and leaflets throughout the City, sending speakers to public forums and debates, issuance of press releases and statements, and posting numerous signs at a multitude of locations throughout the city.

12. As part of this campaign, supporters of "B" have further made public statements that "B," if approved, would not reduce local property values more than 10 per cent from their present value; and that the Rent Control Board (the composition of which is yet unknown):

(1) Would not establish rental ceilings at such a low level that people from other cities and areas would be drawn to Berkeley by lower rental rates, and

(2) Would exempt certain small scale rental units from the provisions of the law.

Further, proponents of "B" on or about April 1, 1977, began circulating tabloid newspapers containing false and in all likelihood defamatory statements including statements denigrating CARC's campaign manager, Donald Solem, in a manner that is apparently intended to incite voters to vote against "B."

Plaintiffs are informed and believe and thereon allege that all aforementioned statements are untrue, unfair or misleading because:

(1) Property values would decrease more than 10 per cent;

(2) It is not yet possible to ascertain the future actions and policies of a Rent Control Board which is not yet constituted and whose members are not yet known; and

(3) CARC's campaign manager was not associated with certain prior campaigns rejected by the Berkeley voters.

13. CARC has conducted studies of the effects of rent control in other jurisdictions, and has researched numerous issues to discover the potential and likely effect that the approval of measure "B" will have on the City itself and its citizens.

Plaintiffs believe it is necessary to inform the electorate in the City of Berkeley of the misleading information distributed by the proponents of "B" and to inform them of the results of plaintiffs' own studies and investigations.

Plaintiffs further believe that proponents of Proposition "B" have inaccurately communicated to the voters the effects of the measure; plaintiffs have carefully studied Proposition "B" and wish to inform the public of the results of those studies. It is necessary for the voters of Berkeley, in the fullest and freest manner possible, to hear all such information and not merely proponents' arguments so that voters are able to cast an informed ballot in the April 19, 1977 election. (See Declaration of CARC's campaign manager as Exhibit I and incorporated herein by this reference).

14. Plaintiffs Mason McDuffie, Berkeley Board of Realtors, Betty Gertiz, Muriel Rosenkranz and Eva Floystrup and others, including those whose declarations are attached to this

complaint as Exhibits J, K, L, M and N have determined that the best and most efficient means of getting this information to the electorate is to band together their resources to conduct research and studies, to obtain data on rent control from other jurisdictions where it has been enacted, primarily in East Coast municipalities of the United States, to conduct opinion polls, to prepare and disseminate this information through the help of volunteer workers and the mails, and to refute information believed to be untrue and misleading circulated by the proponents. Because Proposition "B" is so complex, plaintiffs believe that extensive written explanations are vital to fully inform the voters.

Plaintiffs can only coordinate these resources by pooling all financial contributions. Plaintiffs Mason McDuffie and Berkeley Board of Realtors have contributed sums to CARC as previously set forth to accomplish this purpose.

15. An actual controversy has arisen between plaintiffs and defendants affecting their legal rights and duties under the Act. Defendants contend that under the terms of the Act, CARC is absolutely prohibited from accepting more than $250 from a single person or entity, from entities having many members or even from investor groups whereby any member's or investor's pro rata share of the contribution is substantially below $250.

16. CARC is an unincorporated association, which can act only by and through its agents, officers, supporters and employees. As with all businesses, it must pay persons in its employment and must pay for the cost of preparing materials and presenting information about Proposition "B" to voters in mailings, handbills, advertisements, other writings, debates, discussions, meetings and other media of communication. The Act's limitation of $250 on the amounts which can be contributed and thereafter spent, cannot reasonably be applied to CARC and its supporters in their attempt to protect their businesses and property, or to the individual plaintiffs herein.

Plaintiffs contend that the Act was not intended to prevent plaintiffs from making reasonable and necessary expenditures to communicate by written instruments to the voters of Berkeley on a measure admitted by its proponents to diminish the value and control of plaintiffs' businesses and properties.

17. In the alternative, however, plaintiffs contend that if said Act is construed and enforced as urged by defendants, plaintiffs' constitutional rights to participate effectively in an election campaign in which the issue is plaintiffs' rights to exercise control over and maintain the values of their properties would be gravely impaired. Plaintiffs contend that such interference is invalid as an infringement upon plaintiffs' constitutional rights of free speech, right to petition and freedom of association.

The limitation on contributions by other persons and entities to CARC is an infringement upon the contributors' constitutional rights and injures plaintiff CARC to the extent it curtails their association with CARC for the purpose of informing Berkeley residents about Proposition "B."

Defendants dispute plaintiffs' contentions and urge that said ordinance, as so construed by defendants, is constitutional and valid.

18. Plaintiffs desire a declaration of their rights under the Berkeley Election Reform Act of 1974.

19. The threatened application of the Berkeley Election Reform Act of 1974 to plaintiffs, as construed by defendants, interferes with, threatens, and impairs rights and privileges of plaintiff in the following manner:

A. By prohibiting plaintiffs, Mason McDuffie and Berkeley Board of Realtors, as well as all other similarly inclined from contributing more than $250 to a committee "with respect to" a ballot measure, in derogation of plaintiffs' rights of free expression as set forth in the First Amendment and the United States Constitution and Article 1 Section 9 of the California Constitution.

B. By wording so vague on the face of the Act that plaintiffs are unable to ascertain the true meaning of Section 602 thereof, concerning the meaning of the words "contribution" and "with respect to" a ballot measure, and particularly the meaning of the words "DO NOT ENFORCE" as they appear in the margin of the text adjacent to Section 602 (See Exhibit A).

C. By fixing unreasonably low limits on the amount of monies individual plaintiffs, including organizations with thousands of members, can contribute to CARC and the monies CARC can accept from individual contributors, so that the rights of all plaintiffs to communicate their views on Proposition "B" are unreasonably restricted without relation to any compelling state interest therefor.

D. By impermissibly restricting individual plaintiffs' rights to associate with one another as a single group or entity to oppose the passage of a ballot measure by contributing as a group in excess of $250 to any committee sharing their views.

E. By indirectly placing a limit on the total amount of funds CARC can spend in opposing "B" and thereby violating CARC's rights to freedom of expression.

WHEREFORE, plaintiffs pray for judgment as hereinafter specified.

SECOND CAUSE OF ACTION

INJUNCTION

1. Plaintiffs allege and incorporate herein by reference each and every allegation contained in the First Cause of Action.

2. Plaintiffs are in danger of suffering irreparable harm because of defendants' interpretation of the Election Reform Act of 1974 and defendants' enforcement of the Act.

3. Plaintiffs must have the opportunity immediately to participate in public discussion on the comparative merits of Proposition "B." That measure involves complex questions of the effect of "B" on property values, the flow of non-residents into the City, and related matters and plaintiffs will need virtually every day between now and April 19, 1977 to conduct their dissemination of information program. Any delay irreparably injures plaintiffs' positions in the campaign.

THIRD CAUSE OF ACTION

VAGUENESS; DETRIMENTAL RELIANCE; DUE PROCESS; INJUNCTION

1. Plaintiffs allege and incorporate herein by reference each and every allegation contained in the First Cause of Action.

2. On or about December 1, 1976, the office of the City Clerk of Berkeley publicly distributed to CARC (and others) copies of the text of the Act, for reference and use by CARC during its preparations for the April 19, 1977, election. In the margin of the text, immediately next to Section 602, appeared the words "DO NOT ENFORCE." (See Exhibit A attached hereto and incorporated herein by this reference). These words were annotated on the text by the Berkeley City Attorney, apparently in recognition of recent United States and California Supreme and Appellate Court decisions that placed the validity of Section 602 in considerable question.

3. On or about December 17, 1976, CARC's attorneys requested an advisory opinion from the FCPC to determine the FCPC's position on the enforceability of Section 602. (See Exhibit D attached hereto and incorporated herein by this reference). CARC believed Section 602 was unconstitutional but had decided for political reasons to abide by any ruling of the FCPC.

4. On or about January 12, 1977, at a duly-noticed public meeting of the FCPC, CARC's campaign director, coordinator and legal counsel were advised by the FCPC that it believed Section 602 was valid and enforceable; however, at least partially because of the recommendation of the Berkeley City Attorney (See last paragraph of Memorandum of City Attorney attached hereto as Exhibit "E" and incorporated herein by this reference) and with a view to treat fairly those who had relied on the pre-December, 1976 annotated version of the Act which indicated Section 602 would not be enforced, the FCPC publicly stated that Section 602 would be enforced only prospectively from the day on which the City distributed new

annotated texts of the Act without the words "DO NOT ENFORCE" next to Section 602. Such texts were publicly distributed on January 24, 1971 (See Exhibit "B" attached hereto and incorporated herein by this reference). [Exhibit B is included as Appendix F in the Appendix to Jurisdictional Statement]

5. Prior to January 24, 1971, and in reliance both upon the December 1, 1976 distribution of texts of the Act with the words "DO NOT ENFORCE" appearing beside Section 602 and the January 12, 1977 statements by the FCPC that enforcement of Section 602 would be effective only upon the distribution of new texts, CARC accepted contributions in excess of $250 from numerous contributors, totalling approximately $18,600. (See Declaration of Donald Solem, Marisa Samuels and Peter Bagatelos as Exhibit "F" attached hereto and incorporated herein by this reference). The FCPC never responded in writing to CARC's legal counsel as required by Section 310 of the Act, nor furnished CARC's legal counsel with minutes of the January 12, 1977 meeting. CARC would not have accepted such contributions if it had any doubt of the FCPC's January 12, 1977 ruling as previously set forth.

Plaintiffs Mason McDuffie and Berkeley Board of Realtors made contributions in excess of $250 to CARC prior to January 24, 1977. See Declaration of Mason McDuffie (Exhibit "G" and Berkeley Board of Realtors Exhibit "H").

6. On or about March 30, 1977, the FCPC reversed its position and determined at a duly-noticed and convened meeting that the receipt of contributions larger than $250 by CARC after January 12, 1977 and prior to January 24, 1977 violated Section 602 of the Act. The FCPC rejected CARC's view that the monies had been collected in good faith (for the reasons stated above herein) and rejected CARC's request that to avoid being held in violation of the Act the excess funds over $250 be returned to the contributors who donated them in good faith. FCPC ordered CARC to forfeit the $18,600 to the City in accord with Section 604 of the Act.

Plaintiff CARC urgently needs to use these funds to communicate with the electorate concerning Proposition B before the April 19, 1977 election.

7. The aforementioned forfeiture of the $18,600 in campaign contributions violates plaintiffs' rights in that:

(a) The imprinting of the words "DO NOT ENFORCE" beside Section 602 and subsequent distribution of such texts of the Act, renders Section 602 vague, ambiguous and not susceptible of comprehension by reasonable persons; accordingly, the enforcement of that provision of the Act for contributions made to CARC prior to January 24, 1977 is violative of plaintiffs' rights to Due Process of Law;

(b) The FCPC's application of Section 602 to CARC was arbitrary and capricious and deprived CARC of Due Process of Law, in that defendant FCPC led CARC to believe that Section 602 would be enforced only prospectively from January 24, 1977 and in reliance thereon CARC received the aforementioned $18,600 prior to January 24, 1977; but on March 30, 1977, the Commission without justification adopted a policy to enforce Section 602 from January 12, 1977;

(c) CARC detrimentally and in good faith relied in collecting such contributions from individual plaintiffs and others, on representations of the City, the FCPC and the City Attorney that Section 602 would not be enforced prior to January 24, 1977, and equity demands that CARC not be punished therefor;

(d) The attempted forfeiture stems from the alleged violation of a provision (Section 602) of the Act which is unconstitutional on its face; a fortiori, due process dictates that no penalty can be imposed for "violation" of an invalid law;

(e) The penalty provision (Section 604) of the Act is unreasonable by not only depriving CARC of funds three weeks before the election but also refusing to allow such funds to be returned to the contributors thereof.

8. Plaintiffs are in danger of suffering irreparable harm because of defendants' attempt to enforce Sections 602 and 604 of the Act by requiring CARC to forfeit $18,600 in badly-needed campaign funds only two weeks before the election.

9. Plaintiffs must have the opportunity to participate immediately in public discussion of the comparative merits of Proposition "B." The measure poses complex questions of present and future importance to the City of Berkeley and CARC will need every day between now and April 19 to conduct its program of disseminating information, and in doing

so will need the full and unrestricted use of the campaign funds previously described. Any delay irreparably injures plaintiffs' position in the campaign.

WHEREFORE, plaintiffs pray for judgment as follows:

1. For a declaratory judgment declaring that Section 602 of the Berkeley Election Reform Act of 1974 is unconstitutional, invalid and void;

2. For an order requiring defendants, and each of them, to show cause, if any they have, why they should not be enjoined as hereinafter set forth, during the pendency of this action;

3. For preliminary and permanent injunctions enjoining defendants, and each of them, and their agents, servants and employees, and all persons acting under, in concert with, or for them, from enforcing or attempting to enforce, against plaintiffs, Section 602 of the Berkeley Election Reform Act of 1974 and any and all contribution limits or restrictions contained therein;

4. For preliminary and permanent injunctions enjoining defendants, and each of them, and their agents, servants and employees, and all persons acting under, in concert with, or for them, from enforcing or attempting to enforce Section 604 of the Berkeley Election Reform Act of 1974 to require plaintiff Committee (CARC) to pay into the Berkeley General Fund the aforementioned campaign contributions approximately $18,600 in amount;

5. For costs of suit;

6. For such other and further relief as the Court deems just and proper.

Dated: April 6, 1977

DOBBS, DOYLE & NIELSEN

By VIGO G. NIELSEN, JR.

Vigo G. Nielsen, Jr.
Attorneys for Plaintiffs

VERIFICATION

I am the Campaign Manager for plaintiff CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING (CARC) in the above entitled action; I have read the foregoing COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are herein stated upon my information or belief, and as to those matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 5, 1977 at San Francisco, California.
(date) (place)

DONALD SOLEM

Donald Solem

APPENDIX A

SURVEY OF SPENDING IN STATEWIDE INITIATIVE CAMPAIGNS 1954—1974

This survey was compiled by California Research, a Sacramento research firm, from the official campaign reports filed in the Secretary of State's office.

The side expending the most money won in 50% of the initiative campaigns.

Op.	Description	Results	Actual Spending: For	Actual Spending: Against	Highest Spender
1954 General Election					
4	Aid to needy aged	Failed (55%)	$ 134,928	$ 218,032	Won
1956 General Election					
4	Oil and gas conservation	Failed (77%)	$3,450,211	$1,428,056	Lost
1958 General Election					
16	Abolishing tax exemption for religious school property	Failed (67%)	$ 499,188	$1,340,817	Won
17	Changing sales and income tax rates	Failed (82%)	—0—	$ 813,965	Won
18	"Right to work."	Failed (60%)	$ 892,862	$2,316,200	Won
1960 General Election					
15	Reapportion Senate	Failed (64%)	$ 241,852	$ 334,468	Won
1962 General Election					
22	Osteopath	Adopted (69%)	$ 275,525	$ 66,839	Won
23	Initiative Reapportion Senate	Failed (53%)	$ 136,888	$ 243,975	Won
24	Declaring subversive activities illegal	Failed (60%)	$ 104,074	$ 12,985	Lost

Op.	Description	Results	Actual Spending: For	Actual Spending: Against	Highest Spender
1964 General Election					
14	Repeal "Rumford Act"	Adopted (65%)	$ 660,940	$1,174,056	Lost
15	Prohibiting pay t.v.	Adopted (66%)	$ 878,506	$ 198,191	Won
16	Statewide lottery	Failed (70%)	$ 549,884	$ 46,245	Lost
17	Eliminate "featherbedding" on railroad train crews	Adopted (60%)	$1,934,786	$ 925,827	Won
1968 General Election					
	Limiting ad valorem property tax	Failed (68%)	$ 230,908	$1,024,392	Won
1970 Primary Election					
8	Reducing property tax	Failed (72%)	$1,082,175	$ 325,212	Lost
1972 Primary Election					
9	Environment	Failed (65%)	$ 228,233	$1,381,199	Won
1972 General Election					
14	Limiting taxes	Failed (67%)	$1,277,803	$ 776,487	Lost
15	Establish state employee salaries at prevailing rates	Failed (67%)	$1,781,687	$ 22,537	Lost
16	Procedure for setting salaries of highway patrol	Failed (67%)	$ 379,445	$ —0—	Lost
	Death penalty	Adopted (67%)	$ 44,224	$ 60,068	Lost
18	Obscenity initiative	Failed (68%)	$ 162,899	$ 877,256	Won
19	Legalizing marijuana	Failed (66%)	$ 191,619	$ 4,995	Lost

Op.	Description	Results	Actual Spending: For	Actual Spending: Against	Highest Spender
20	Coastal initiative	Adopted (55%)	$ 294,786	$1,156,583	Lost
21	Prohibit busing	Adopted (63%)	$ 42,683	$ 12,917	Won
22	Agricultural labor	Failed (58%)	$ 956,137	$ 229,281	Lost
1973 Special Election					
1	Tax limitation	Failed (54%)	$2,018,527	$ 926,601	Lost
1974 Primary Election					
9	Political reform	Adopted (70%)	$ 608,658	$ 201,879	Won
1974 General Election					
17	Wild and scenic rivers	Failed (53%)	$ 447,497	$ 247,258	Lost
					Won 14
					Lost 14

EXHIBIT D

DOBBS, DOYLE & NIELSEN
Attorneys and Counselors at Law
SUITE 2500, THE ALCOA BUILDING
ONE MARITIME PLAZA
SAN FRANCISCO, CA 94111
TELEPHONE (415) 362-1940

December 17, 1976

Berkeley Fair Campaign Practices Commission
Ms. Patricia DeVito
c/o City Clerk's Office
City Hall
Berkeley, California

Dear Ms. DeVito and Commissioners:

After careful review of the Berkeley Election Reform Act of 1974, revised to November 5, 1974 and annotated August, 1976, and after several telephone discussions with various Berkeley governmental officials, I am unclear as to the status of Section 602 of Ordinance No. 4700—N.S., known as the Berkeley Election Reform Act of 1974.

The annotation beside Section 602 in the copy which I have states "Do Not Enforce." This section sets a limitation of $250 on those persons who wish to make political contributions in support of or in opposition to a measure. I have been requested by my clients as to whether that section is still valid in light of the annotation.

I hereby request your advisory opinion on behalf of my clients, therefore, as to whether any contributions exceeding $250 which might be made to campaign committees which intend to support or oppose ballot measures can be retained under present Berkeley law or, if not, whether the entire amount of such contributions must be returned to the donors or merely those portions which exceed $250 in each case.

Assistant City Attorney Dennis Wheat advised me by telephone on December 17, 1976 that City Attorney Michael Lawson had apprised him that Section 602 will not be enforced and therefore there are no contribution limitations at all. As requested, I would appreciate your confirmation or denial of this information.

Thank you very much for your cooperation in this matter.

I look forward to receiving your reply, presumably within a 14-day period specified in the ordinance for reply to such opinion request.

Yours very truly,

PETER A. BAGATELOS

Peter A. Bagatelos

PAB:aeo

RECEIVED

January 12, 1977
OFFICE OF CITY CLERK

EXHIBIT E

January 12, 1977

TO EDYTHE CAMPBELL, CITY CLERK & SECRETARY TO THE FAIR CAMPAIGN PRACTICES COMMISSION

FROM MICHAEL LAWSON, CITY ATTORNEY

SUBJECT: BERKELEY ELECTION REFORM ACT—

(Ordinance No. 4700-N.S.)

At your request I have reviewed the Berkeley Election Reform Act (Ordinance No. 4700-N.S.) in its entirety.

I have also reviewed a number of inquiries directed at the City Clerk and the Fair Campaign Practices Commission by Peter Bagatelos, an attorney representing individuals concerned with the enforcement of Ordinance 4700.

The purpose of this memorandum is to respond to the specific inquiries of Mr. Bagatelos.

1. One of his inquiries dealt with the enforceability of Section 602, which section limits campaign contributions to $250. Section 602 provides,

> "No person shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support of or in opposition to a measure to exceed two hundred and fifty dollars ($250.00)."

Recent decisions of the United States Supreme Court and the California Supreme Court clearly prohibit limitations on campaign expenditures; however, it is less clear whether campaign contributions with respect to candidates or measures can be regulated. In the most thorough analysis of these two problem areas, the U.S. Supreme Court in *Buckley v. Valeo* (1976) 424 U.S. 1, 46 L.Ed. 2d 659, invalidated portions of the

Federal Election Campaign Act of 1971 respecting limitations on campaign expenditures but left intact restrictions on contributions made by individuals or committees. Based upon the distinction made by the Court between expenditures and contributions, I am of the opinion that Section 602 of the Berkeley Election Reform Act is valid and enforceable. In my judgment Section 602 would meet the test established in *Buckley* which requires that the State show a "compelling interest" subject to the strictest scrutiny.

Because individuals and committees have relied on the annotated version of Ordinance 4700 disseminated by the City Clerk's office, which indicates that Section 602 would not be enforced, I believe that in all fairness enforcement of Section 602 should be prospective in nature, that is to say that contributions made to or received by individuals or committees should not be penalized for relying on the annotated ordinance disseminated by the City Clerk and initially approved by the City Attorney.

2. A second inquiry of Mr. Bagatelos was directed at Sections 412 and 603 of the Berkeley Election Reform Act. My reading of these sections would allow, pursuant to Section 603, the first $1500 raised in contributions of $50 or less to be exempt from disclosure. Contributions of $50 or less received after the first $1500 are not subject to the exemption of Section 412 for contributions of less than $50. In my opinion the first $1500 may include "anonymous" contributions, not exceeding $50, as well as "known" contributions not exceeding $50, or said $1500 may be made up entirely of anonymous contributions not exceeding $50 or may be made up entirely of known contributions not exceeding $50. Upon reaching the initial $1500, contributions received thereafter, whether under $50 or over $50, would require disclosure of the name, address, employer and occupation.

Attached hereto you will find the four communications of Mr. Bagetelos, dated January 6, 1977; January 4, 1977; December 17, 1976; and December 17, 1976.

MICHAEL LAWSON

Michael Lawson
City Attorney

ML:jh

Attachments

EXHIBIT F

DECLARATION RE: JANUARY 12, 1977 COMMISSION DECISION

We, Donald Solem, Marisa Samuels, and Peter A. Bagatelos, certify:

1) Donald Solem is campaign manager of the Citizens Against Rent Control (CARC), a committee, registered with the City Clerk of Berkeley, to oppose Proposition B on the April 19, 1977 ballot.

2) Marisa Samuels is campaign coordinator of CARC.

3) Peter A. Bagatelos is legal counsel for CARC.

4) In December, 1976 CARC legal counsel requested the Berkeley Fair Campaign Practices Commission (FCPC) to confirm non-enforceability of Section 602 of Berkeley Ordinance 4700-N.S. (Act), so that CARC would comply with the FCPC's interpretation of Section 602, even though CARC believed Section 602 was unconstitutional.

5) On January 12, 1977, the FCPC met for a publicly noticed and scheduled meeting to consider the enforceability of Section 602.

6) We three attended the January 12, 1977 meeting of the FCPC. CARC legal counsel participated in lengthy discussion with regard to the validity and enforceability of Section 602. Legal counsel indicated to the FCPC opinions that Section 602 was invalid.

7) City Attorney of Berkeley, Michael Lawson, had presented a memorandum arguing that Section 602 was enforceable, but recommended that because individuals and committees had relied on the publicy circulated annotated version of Ordinance 4700, which indicated that Section 602 would not be enforced, in all fairness enforcement of Section 602 should be prospective only.

8) FCPC adopted the City Attorney's position on validity and enforceability. We heard the FCPC also accept the City Attorney's recommendation for prospective application only.

9) CARC legal counsel reminded the Commission that committees would continue to rely on the annotated ordinance, indicating non-enforceability, until notified to the contrary.

The City Clerk had indicated that the City Attorney was completing a review of the annotations and that the new annotated ordinance would be available by the following week. We heard the Commission decide that prospective application of Section 602 would commence on the date a newly issued annotated ordinance, not bearing any annotation beside Section 602, was available for public distribution. The new annotated ordinance was made available to the public on January 24, 1977.

10) CARC relied upon this decision and accepted contributions of $250 only until January 20, 1977.

11) We are willing individually to be questioned with regard to these matters and to have our responses recorded with a polygraph instrument.

We declare under penalty of perjury that the foregoing is true and correct to the best of our knowledge and belief.

DATED: April 5, 1977 — /s/ DONALD SOLEM
Donald Solem

DATED: April 5, 1977 — /s/ MARISSA SAMUELS
Marissa Samuels

DATED: April 5, 1977 — /s/ PETER A. BAGATELOS
Peter A. Bagatelos

EXHIBIT G

DECLARATION

I, M. R. Griffin, certify:

(1) I am a Partner of Mason-McDuffie Co.

(2) Mason-McDuffie Co. has been active in the real estate business in Berkeley since 1887. It sells, exchanges, rents, manages, insures and finances real property in Berkeley and other areas in California. It owns real property in Berkeley and employs several hundred persons at its main office in Berkeley.

(3) This company has long been involved with and concerned with the issue of rent control, which is an issue of widespread concern and will significantly affect the housing and rental estate investment industry in the City of Berkeley in particular and the entire State in general.

(4) A measure relative to rent control has been placed on the Berkeley City ballot (see Exhibit C to the Complaint); the election to be held on April 19, 1977. If this measure is approved by the voters, we believe that other municipalities in California will attempt to also enact similar legislation.

(5) Based upon our experience in this field, we believe that the implementation of rent control measures in California will curtail housing availability, eliminate many rental units which will be sold by owners for non rental purposes, reduce maintenance of existing units, diminish the tax base due to declining values based on reduced net income of rent property, and produce other administrative and socially undesireable effects.

(6) We have studied the effects of rent control measures in other jurisdictions and thereby have obtained information which we feel must be made available to the electorate prior to election date, so that a knowledgeable and informed decision of this issue will be reached.

(7) This company determined that an effective means of communicating these thoughts and information as well as its belief was to make a contribution directly to Citizens Against Rental Control (CARC), a committee, registered with the Berkeley City Clerk's office, organized to oppose the rent control measure.

(8) We attempted in December of 1976 to make a contribution to CARC in an amount over $250 since Berkeley is a large city and considerable funds will be needed to adequately communicate this factual information. CARC advised us that the language in the Berkeley Election Reform Act of 1974 appeared to prohibit contributions in excess of $250, but that it appeared that the Berkeley City Attorney was not enforcing the limitation in recognition of its vulnerability to Constitutional attack set forth in recent U.S. and California Supreme and Appellate Court decisions.

(9) Although we were willing to make a contribution in excess of $250 at that time on the assurance that the City did not believe Section 602 was enforceable, CARC asked that we withhold it until the Berkeley Fair Campaign Practices Commission confirmed the unenforceability of Section 602. We complied with this request.

(10) On or about January 13, 1977, this Company was advised that the Berkeley Fair Campaign Practices Commission met on January 12, 1977 and at that time advised CARC's campaign manager and legal counsel that in the Commission's opinion, Section 602 was valid and enforceable, but that fairness dictated that Section 602 was enforced only prospectively from when copies of a new annotated act were made available to the public.

(11) Relying upon what we believed to be the Commission's statement of January 12, 1977, and since we would have already made a contribution except for the caution of CARC, this company contributed $1,000 to CARC on January 17, 1977. Copies of the new annotated act were made public on January 24, 1977.

(12) We feel that Section 602 violates our rights to express freely our views on the issue of rent control, an issue that directly affects us and thereby needlessly limits free and open public debate on a subject of obvious public importance.

(13) We are further confused as to the meaning of Section 602 of the Berkeley Campaign Ordinance, and particularly as to which acts are permitted and which are proscribed. The limitation appears to apply to all monies spent "with respect to" the rent control issue, including publication of our views in supplementation to those of CARC. It is our belief that such a restriction impermissibly violates our First Amendment rights to freedom of speech and expression.

DECLARATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: April 1, 1977.

M. R. GRIFFIN

Title: *Partner*

EXHIBIT H

Berkeley Board of Realtors

1553 GROVE ST. • BERKELEY, CALIFORNIA 94709 • POST OFFICE BOX 1224, BERKELEY, CALIFORNIA 94701

DECLARATION

I, Victor Stachura, certify:

1) I am President of the Berkeley Board of Realtors.

2) Members of this Berkeley Board of Realtors include many Realtors (Brokers) and Realtor-Associates (Salesmen) who conduct business in the City of Berkeley.

3) This Board has long been involved with and concerned with the issue of rent control, which is an issue of widespread concern and will significantly effect the housing and real estate investment industry in the City of Berkeley in particular, and the entire state in general.

4) A measure relative to rent control has been placed on the Berkeley city ballot (see exhibit C to the Complaint); the election will be held on April 19, 1977. If this measure is approved by the voters, we believe that other municipalities in California will attempt to also enact similar legislation.

5) Based upon our experience and study in this field, we believe that the implementation of rent control measures in California will curtail housing availability, eliminate many rental units which will be sold by owners for non-rental purposes, lower maintenance of existing units, diminish the tax base due to declining values based on reduced net income of rental property, and produce other administrative and socially undesirable effects. Because of the facts stated above, the Directors of the Berkeley Board

of Realtors felt a monetary contribution from Board funds was in order; I am told that some individual offices and/or members are also contributing.

6) We have studied the effects of rent control measures in other jurisdictions and have thereby obtained information which we feel must be made available to the electorate prior to election day, so a knowledgeable and informed decision on this issue will be reached.

7) This Board determined that the most effective means of communicating these thoughts and information as well as its belief was to make a contribution directly to Coalition For Fair Housing (later named Citizens Against Rent Control and referred to hereinafter as C.A.R.C.), a committee registered with the Berkeley City Clerk's office, organized to oppose the rent control measure.

8) We attempted in December of 1976 to make a contribution to C.A.R.C. in an amount over $250.00 since Berkeley is a large city and considerable funds will be needed to adequately communicate this factual information. Spokesmen for C.A.R.C. advised us that the language in the Berkeley election reform act of 1974 appeared to prohibit contributions in excess of $250.00, but that it appeared that the Berkeley city attorney was not enforcing the limitation in recognition of its vulnerability to constitutional attack set forth in recent U.S. and California Supreme and Appellate Court decisions.

9) Although we were willing to make a contribution in excess of $250.00 at that time on the assurance that the city did not believe section 602 was enforceable, C.A.R.C. asked that we withhold it until the Berkeley Fair Campaign Practices Commission confirmed the unenforceability of Section 602. We complied with this request.

10) On or about January 13, 1977, this Board was advised that the Berkeley Fair Campaign Commission met on January 12, 1977, and at that time advised C.A.R.C.'s campaign manager and legal counsel that in the commission's opinion Section 602 was valid and enforceable, but

that fairness dictated that Section 602 be enforced only prospectively from when copies of a new annotated Act were made available to the public.

11) Relying upon what we were told and believed to be the commission's statement of January 12, 1977, and since we would have already made a contribution except for the caution of C.A.R.C. this association contributed $5,000.00 to C.A.R.C. on January 14, 1977. We were informed that copies of the new annotated Act were made public on January 24, 1977.

12) We feel that Section 602 violates our rights to express freely our views on the issue of rent control, an issue that directly effects us (our members) and thereby needlessly limits free and open public debate on an issue of obvious public importance.

13) We are further confused as to the meaning of Section 602 of the Berkeley Campaign Ordinance, and particularly as to which acts are permitted and which acts are proscribed. The limitation appears to apply to all monies spent "with respect to" the rent control issue, including publication of our views in supplementation to those of C.A.R.C. It is our belief that such a restriction inpermissively violates our first amendment rights to freedom of speech and expression.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: April 4, 1977

VICTOR F. STACHURA

President

EXHIBIT I

DECLARATION OF CAMPAIGN MANAGER

I, DONALD L. SOLEM, declare:

1. I am the owner of Solem and Associates, a Bay Area based firm which among other things, specializes in the management of political campaigns, including ballot measure propositions.

2. As a firm I handled the Northern California campaigns for Proposition 2 (the Coastal Park and Recreation Bond Act) and Proposition 5 (the Interest Rate Limitation Measure (November, 1976)).

Prior to the formation of the above-named firm, I served as Northern California campaign co-ordinator for Citizens for Jobs and Energy (the No on 15 Committee), June, 1976, served for five years as administrative assistant to State Senate Majority Leader George Moscone in San Francisco and Sacramento, and served as executive secretary to the Democratic State Central Committee (2 years). Prior to that I managed or co-ordinated Bay Area campaigns for Supervisor, Assessor, City Council, School Board, Congress, State Senate (now Congressman George Miller), Assembly (Ken Meade and now Secretary of State March Fong Eu).

I have also served as a campaign consultant to the Democratic National Committee (1974) and have been active in positions of leadership in volunteer Democratic political groups from 1961 to date (Democratic Clubs, County Central Committees, Young Democrats, etc.).

3. The firm of Solem and Associates is serving as campaign manager for Citizens Against Rent Control/Coalition For Fair Housing/No on Proposition B (CARC), a committee, registered with the City Clerk of Berkeley, to oppose the proposed charter amendment to institute rent controls in Berkeley, which measure has qualified for the April 19, 1977 ballot.

4. I have personally participated in all aspects of our campaign against this initiative measure. I am fully familiar with the manner in which our campaign has been conducted thus far and our plans for the last three weeks of this campaign.

5. I am familiar with the costs of mailing communication to all registered voters in Berkeley, the costs of newspaper advertisements and other forms of communication in political campaigns in localities the size of Berkeley and specifically the current costs of operating the "No on B" headquarters and the key volunteer staff of approximately 25 persons. A citywide mailing to each of the 71,088 registered voters in Berkeley costs approximately $12,800.

6. CARC is a broad-based volunteer organization. So far there have been approximately 750 volunteers assisting the campaign's efforts to disseminate factual information on the economic and social consequences of enacting Proposition B.

The campaign is led by 5 volunteer co-chairpersons and by a Supporters' Committee of over 125 persons, some of whose names appear on our correspondence, as indicated by the attachment to this declaration.

7. The effect of rent control is very serious upon persons who own property, manage property, are tenants or are otherwise involved in the community in Berkeley. Over 1,300 different contributors have already made contributions, which contributions have been fully disclosed on campaign statements filed on January 31 and March 15, 1977. Over 6 dozen persons have directly contacted me and members of my staff, expressing a willingness to assist in our education effort, but expressing a lack of time or of experience with campaign management.

These persons can only assist our educational process by making financial contributions to a committee experienced in ballot measures which has thoroughly researched the issues of rent control, such as CARC.

8. In a separate declaration, I have stated that I personally heard the Berkeley Fair Campaign Practices Commission (Commission) on January 12, 1977 allow contributions in excess of $250 prior to a new publication of the Berkeley Campaign Ordinance which did not annotate the contribution limitation (§602) as unenforceable. The attorneys for the proponents of the rent control ordinance acknowledge that they received agendas of the Commission's meetings. However, they failed to attend the January 12, 1977 meeting.

We had previously been in contact with at least a half dozen persons wishing to communicate to Berkeley citizens their opposition arguments to Proposition B by contributing to CARC in excess of $250. I had informed these people that we planned to only take contributions that were acceptable to the Berkeley Fair Campaign Practices Commission, even though we believed that any limitations would be an unconstitutional restraint on free communication of facts.

After the Commission's January 12, 1977 meeting, we contacted these contributors and before the new version of the Ordinance was published, our campaign received contributions of $18,600 in excess of $250.

9. CARC raised approximately $108,000 between December and March. The committee discontinued all major fundraising efforts in mid-March and adopted a budget which included the expenditure of the $18,600. The Commission ruled on March 30, 1977 that the $18,600 was accepted in violation of the Ordinance and must be promptly remitted to the City Auditor.

10. The issues raised by the Rent Control Initiative are extremely complex. Not only is it an emotional issue, it will have substantial economic impact on apartment owners, renters, property owners and businesses within Berkeley and will substantially decrease the supply of available housing for all Berkeleyans. Because renter's income will be a factor in setting rents, the poor, students, the elderly and those generally with low incomes will be displaced by wealthier renters. Repairs and maintenance

on Berkeley's already old housing will suffer under rent control. And, finally, the adoption of rent control will foreclose other constructive steps which can be taken to meet Berkeley's housing shortage.

The proposed initiative is poorly worded and does not accomplish the alleged goals of the initiative.

11. The proponents of the Rent Control Ordinance have announced that they have large numbers of volunteers to circulate materials and that this initiative is part of a statewide coalition to secure rent control in many California communities. The proponents have acknowledged that the press in Berkeley is receptive to disseminate arguments on behalf of the rent control proposal. The proponents know that the Commission advocates contribution and expenditure limitations and that considerable publicity, negative to CARC, results from charging CARC with campaign violations. The proponents know that CARC is being required to divert campaign resources to defend these charges before the Commission and to seek judicial approval to spend these funds. Such tactics are deliberate attempts to reduce CARC's ability to communicate information to Berkeley voters.

12. I am familiar with studies that have been made on the expenditures for statewide initiative campaigns. Those of which I am aware demonstrate that large expenditures of money do not correlate with winning an election.

The expenditure of monies on an initiative campaign only increases the ability to communicate facts more freely to voters prior to the election.

13. It is my opinion and that of CARC that CARC must continue to present comprehensive economic, technical and statistical data to the voters on the effects of Proposition B. Many of these issues should, in my opinion, be treated and discussed separately, in separate communications. The communication of such information is costly and must be done before April 13, 1977, to have any effect on the April 19, 1977 election. If the Commission

denies the committee's use of $18,600, the Committee's present remaining funds are insufficient to communicate this information to Berkeley voters.

The foregoing statements are made up of my own personal knowledge and are true and correct, except for those which are stated to be my opinion.

Executed in Berkeley, California on the 5th of April, 1977.

DONALD SOLEM

Donald Solem

EXHIBIT J

DECLARATION

I, Zan L. Beckstead, certify:

1. I am the Executive Vice President and chief operating officer of the California Association of Realtors®, a Statewide California non-profit corporation.

2. There are approximately 100,000 members of our Association in the State of California including approximately 450 Realtors® who are residents or who conduct their business and use rental property in the City of Berkeley.

3. CAR has long studied the issue of rent control and has opposed unreasonable ordinances when they adversely affect the housing and real estate industry.

4. CAR has studied the Berkeley proposed Measure B, which if enacted will create a system of rent control in Berkeley. CAR has determined that the proposed measure is not in the best interest of our membership, the citizens of Berkeley and the people of California. We believe it will adversely curtail housing availability and the standards of construction and maintenance of rental units in Berkeley.

5. Our membership believes that the citizens of Berkeley should be made aware of the implications of this new ballot measure. Our membership believes we can best assist the dissemination of information by contributing from our members funds to the organized opposition campaign located in Berkeley, which contributions will be part of a coordinated education effort.

6. CAR informed the citizens against rent control, the committee opposing the rent control initiative in December that we were interested in making a contribution of $5,000. Citizens Against Rent Control informed us that there was some legal confusion about the Berkeley campaign ordinances but they were attempting to resolve that confusion.

7. On or about January 13, 1977, our legal counsel, who specializes in political law, informed us that contributions in excess of $250 were legal until such time as the City of Berkeley revised its campaign ordinance which stated that the contribution limitation was unenforceable. On January 14, 1977, CAR made a contribution to Citizens for Rent Control in the sum of $5,000 which is approximately $11 per membership.

8. CAR believes that our members and other voters in Berkeley are unduly restricted if these monies cannot be spent to freely and convincingly express our position on Proposition B.

I declare, under penalty of perjury, that the following is true and correct to the best of my knowledge and belief.

April 1, 1977

CALIFORNIA ASSOCIATION OF REALTORS®

ZAN L. BECKSTEAD

Zan L. Beckstead
Executive Vice President

ZLB:mt

EXHIBIT K

DECLARATION

(1) I am the Vice Chairman of the Apartment Political Action Committee.

(2) Members of this association include many apartment owners who conduct business and own rental property in the city of Berkeley.

(3) This association has long been involved with and concerned with the issue of rent control, which is an issue of widespread concern and will significantly effect the housing and real estate investment industry in the city of Berkeley in particular, and the entire state in general.

(4) A measure relating to rent control has been placed on the Berkeley city ballot (see exhibit "C" to the complaint); the election will be held on April 19, 1977. If this measure is approved by the voters, we believe that other municipalities in California will attempt to also enact similar legislation.

(5) Based on our experience in this field, we believe that the implementation of rent control measures in California will curtail housing availability, eliminate many rental units which will be sold by owners for non rental purposes, lower maintenance of existing units, diminish tax base due to declared values based on reduced net income of rental property, and produce other administrative and socially undesirable effects.

(6) We have studied the effects of rent control measures in other jurisdictions and thereby have obtained information which we feel must be made available to the electorate prior to election day, so a knowledgeable and informed decision on this issue will be reached.

(7) This association determined that the most effective means of communicating these thoughts and information as well as its belief was to make a contribution directly to Citizens Against Rent Control (CARC), a committee registered with the Berkeley city clerk's office and originally opposed to rent control measures.

(8) This association attempted in December 1976 to make a contribution to CARC in an amount over $250 since Berkeley is a large city and considerable funds will be needed to adequately communicate this factual information. CARC advised us that the language in the Berkeley Election Reform Act of 1974 appeared to prohibit contribution in excess of $250, but that it appeared that the Berkeley city attorney was not enforcing the limitation in recognition of its vulnerability to constitutional attack set forth in recent U.S. and California Supreme and Appellate Court decisions.

(9) Although this association was willing to make a contribution in excess of $250 at the time on the assurance that the city did not believe section 602 was enforceable, CARC asked that this association withhold it until the Berkeley Fair Campaign Practices Committee confirmed the unenforceability of section 602. This association complied with this request.

(10) On or about January 13, 1977, this association was advised that the Berkeley Fair Campaign Practices Committee met on January 12, 1977, and at that time advised CARC's campaign manager and legal counsel that in the committee's opinion section 602 was valid and enforceable, but that fairness dictated that section 602 be enforced only prospectively from the time when copies of a new annotated act were made available to the public.

(11) Relying upon what we believe to be the committee statement of January 12, 1977, and since we would have already made a contribution except for the caution of CARC, this association contributed $5,000 to CARC on January 17, 1977. Copies of the new annotated act were made public on January 24, 1977.

(12) We feel that section 602 violated our rights to express freely our views on the issue of rent control, an issue that directly effects our members and thereby needlessly limits free and open public debate on an issue of obvious public importance.

(13) We are further confused as to the meaning of section 602 of the Berkeley Campaign Ordinance, and particularly as to which acts are permitted and which acts are proscribed. The

limitation appears to apply to all monies spent "with respect to" the rent control issue, including publication of our views in supplementation to those of CARC. It is our belief that such a restriction impermissibly violated our First Amendment rights to freedom and expression.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated this 4th day of April, 1977.

ANDREW R. BUSSOUD

Andrew R. Bussoud
Vice Chairman

EXHIBIT L

DECLARATION

I, A. Gordon Nicolson, certify:

(1) I am President of the Miramonte Co.

(2) This Company conducts business and owns rental property in the City of Berkeley.

(3) We have long been involved with and concerned with the issue of rent control, which is an issue of widespread concern and will significantly affect the housing and real estate investment industry in the City of Berkeley in particular and the entire state in general.

(4) A measure relative to rent control has been placed on the Berkeley City ballot (see Exhibit C to the Complaint); the election will be held on April 19, 1977. If this measure is approved by the voters, we believe that other municipalities in California will attempt to also enact similar legislation.

(5) Based upon our experience in this field, we believe that the implementation of rent control measures in California will curtail housing availability, eliminate many rental units which will be sold by owners for non-rental purposes, lower maintenance of existing units, diminish the tax base due to declining values based on reduced net income of rental property, and produce other administrative and socially undesirable effects.

(6) We have studied the effects of rent control measures in other jurisdictions and thereby have obtained information which we feel must be made available to the electorate prior to election day, so a knowledgeable and informed decision on this issue will be reached.

(7) This Company determined that the most effective means of communicating these thoughts and information as well as its belief was to make a contribution directly to Citizens Against Rent Control (CARC) Committee, registered with the Berkeley City Clerk's office, organized to oppose the rent control measure.

(8) We attempted in December of 1976 to make a contribution to CARC in an amount over $250.00 since Berkeley is a large City and considerable funds will be needed to adequately communicate this factual information. CARC advised us that the language in the Berkeley Election Reform Act of 1974 appeared to prohibit contributions in excess of $250.00, but that it appeared that the Berkeley City Attorney was not enforcing the limitation in recognition of its vulnerability to constitutional attack set forth in recent U.S. and Calfornia Supreme and Appellate Court decisions.

(9) Although we were willing to make a contribution in excess of $250.00 at that time on the assurance that the City did not believe Section 602 was enforceable, CARC asked that we withhold it until the Berkeley Fair Campaign Practices Commission confirmed the unenforceability of Section 602. We complied with this request.

(10) On or about January 13, 1977, this Company was advised that the Berkeley Fair Campaign Practices Commission met on January 12, 1977, and at that time advised CARC's campaign manager and legal counsel that in the Commission's opinion Section 602 was valid and enforceable, but that fairness dictated that Section 602 be enforced only prospectively from when copies of a new annotated Act were made available to the public.

(11) Relying upon what we believed to be the Commission's statement of January 12, 1977, and since we would have already made a contribution except for the caution of CARC, this Company contributed $1,000.00 to CARC on January 20, 1977. Copies of the new annotated Act were made public on January 24, 1977.

(12) We feel that Section 602 violates our rights to freely express our views on the issue of rent control, an issue that directly affects us (our members) and thereby needlessly limits free and open public debate on an issue of obvious public importance.

(13) We are further confused as to the meaning of Section 602 of the Berkeley Campaign Ordinance, and particularly as to which acts are permitted and which acts are proscribed. The limitation appears to apply to all monies spent "with respect to" the rent control issue, including publication of our views in supplementation to those of CARC. It is our belief that such a restriction impermissibly violates our first amendment rights to freedom of speech and expression.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowlege and belief.

Dated: April 1, 1977

A. GORDON NICOLSON, JR.

A. Gordon Nicolson, Jr.
President
Miramonte Co.

EXHIBIT M

DECLARATION

I, John P. Hannigan, certify:

1. I am the Executive Vice President of the Southern Alameda County Board of Realtors.

2. Members of this association include many Realtors who conduct business and own rental property in other cities of California.

3. This association has long been involved with and concerned with the issue of rent control, which is an issue of wide spread concern and will unquestionably destroy the housing and real estate investment industry in the City of Berkeley, and spread throughout the entire state as devastating as a nuclear bomb - the best example of which is bankrupt New York City.

4. A measure relative to rent control has been placed on the Berkeley City ballot (see Exhibit C to the Complaint); the election will be held on April 19, 1977. It must be defeated.

5. Based upon our experience in this field, we know that the implementation of rent control measures in California will curtail housing availability, eliminate most rental units which will be sold by owners for non-rental purposes, lower maintenance of existing units, destroy the tax base due to declining values based on reduced net income of rental property, and produce other administrative and socially undesirable effects.

6. We have studied the effects of rent control measures in other jurisdictions and thereby have obtained information which we feel must be made available to the electorate prior to election day, so a knowledgeable and informed decision on this issue will be reached.

7. This association determines that the most effective means of communicating these thoughts and information as well as its belief was to make a contribution directly to

Citizens Against Rent Control (CARC), a committee registered with the Berkeley City Clerk's office, organized to oppose the rent control measure.

8. We attempted in December, 1976, to make a contribution to CARC in an amount over $250 since Berkeley is a large city and considerable funds will be needed to adequately communicate this factual information. CARC advised us that the language in the Berkeley election Reform Act of 1974 appeared to prohibit contributions in excess of $250 but that it appeared that the Berkeley City Attorney was not enforcing the limitations in recognition of its vulnerability to constitutional attack set forth in recent U.S. and California Supreme and Appellate court decisions.

9. Although we were willing to make a contribution in excess of $250 at that time on the assurance that the city did not believe Section 602 was enforceable, CARC asked that we withhold it until the Berkeley Fair Campaign Practices Commission confirmed the unenforceability of Section 602. We complied with this request.

10. On or about January 13, 1977, this association was advised that the Berkeley Fair Campaign Practices Commission met on January 12, 1977, and at that time advised CARC's campaign manager and legal counsel that in the commission's opinion, Section 602 was valid and enforceable, but that service dictated that Section 602 be enforced only prospectively from when copies of a new annotated Act were made available to the public.

11. Relying upon what we believed to be the commission's statement of January 12, 1977, and since we would have already made a contribution except for the caution of CARC, this association contributed $1,000 written on December 22, 1976, with the understanding that it was well in advance of any deadline limiting donations.

12. We feel that Section 602 violates our rights to freely express our views on the issue of rent control, an issue that directly affects our members and thereby needlessly limits free and open public debate on an issue of obvious public importance.

13. We are further confused as to the meaning of Section 602 of the Berkeley Ordinance and particularly as to which acts are permitted and which acts are proscribed. The limitation appears to apply to all monies spent "with respect to" the rent control issue, including publication of our views in supplementation to those of CARC. It is our belief that such a restriction impermissibly violates our first amendment rights to freedom of speech and expression.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: 4/1/77

J. P. HANNIGAN

J. P. Hannigan
Executive Vice President
SOUTHERN ALAMEDA COUNTY
BOARD OF REALTORS

EXHIBIT N

B/G MANAGEMENT COMPANY
2520 College Ave.
Berkeley, California 94704
(415) 848-3608

DECLARATION

We, Irving Betz and Sam Genirberg, are general partners of the B/G Management Company.

Members of this firm include many limited partners who own rental property in the City of Berkeley.

This Company has long been involved with and concerned with the issue of rent control, which is an issue of widespread concern and will significantly affect the housing and real estate investment industry in the City of Berkeley.

A measure relative to rent control has been placed on the Berkeley City ballot (see Exhibit C to the Complaint); the election will be held on April 19, 1977.

Based upon our experience in this field, we believe that the implementation of rent control measures in California will curtail housing availability, eliminate many rental units which will be sold by owners for non-rental purposes, lower maintenance of existing units thus creating slums throughout the City of Berkeley, diminish the tax base due to a drastic decline of real estate values based on reduced net income of rental property, and produce other administrative and socially undesirable effects, which in turn will worsen the housing situation in Berkeley and will create a burden on thousand of students and other residents.

We have studied the effects of rent control measures in other jurisdictions and thereby have obtained information which we feel must be made available to the electorate prior to election day, so a knowledgeable and informed decision on this issue will be reached.

The B/G Management Company determined that the most effective means of communicating these thoughts and information as well as its belief was to make a contribution directly to Citizens Against Rent Control (CARC), a committee registered with the Berkeley City Clerk's Office organized to oppose the rent control measure.

We were advised that the language in the Berkeley Election Reform Act of 1974 appeared to prohibit contributions in excess of $250 but that it appeared that the Berkeley City Attorney was not enforcing the limitation in recognition of its vulnerability due to constitutional attack set forth in recent U.S. and California Supreme and Appellate Court decisions.

Although we were willing to make a contribution in excess of $250 at the time due on the assurance that the City did not believe Section 602 was enforceable, CARC asked that we withhold it until the Berkeley Fair Campaign Practices Commission confirmed the unenforceability of Section 602. We complied with this request.

On or about January 13, 1977, this company was advised that the Berkeley Fair Campaign Practices Commission met on January 12, 1977, and at that time advised CARC's campaign manager and legal counsel that in the Commission's opinion Section 602 was valid and enforceable, but that fairness dictated that Section 602 be enforced only prospectively from when copies of a new annotated Act were made available to the public.

Relying upon what we believed to be the Commission's statement of January 12, 1977, and since we would have already made a contribution except for the caution of CARC, this Company contributed $2,000.00 to CARC on January 21, 1977 after assurances from legal counsel of CARC that contributions above $250.00 can be made legally if such contribution will be turned over to CARC by January 21, 1977. Copies of the new annotated Act were made public on January 24, 1977.

We feel that Section 602 violates our rights to express freely our views on the issue of rent control, an issue that directly affects us (our members), and thereby needlessly limits free and open public debate on an issue of obvious public importance.

We are further confused as to the meaning of Section 602 of the Berkeley Campaign Ordinance and particularly as to which acts are permitted and which acts are proscribed. The limitation appears to apply to all monies spent "with respect to" the rent control issue, including publication of our view in supplementation to those of CARC. It is our belief that such a restriction impermissibly violates our first amendment rights to freedom of speech and expression.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: Apr. 5, 1977

SAM GENIRBERG

Sam Genirberg

Official Capacity of the Signer with the Association

DOBBS, DOYLE & NIELSEN
VIGO G. NIELSEN, JR., ESQ.
JAMES R. PARRINELLO, ESQ.
PETER A. BAGATELOS, ESQ.
Suite 2500, The Alcoa Building
One Maritime Plaza
San Francisco, California 94111
Telephone (415) 362-1940
Attorneys for Plaintiffs

ENDORSED
FILED
Apr 6 1977
RENE C. DAVIDSON, *County Clerk*
By: JAMES KITTERMAN, *Deputy*

In The Superior Court of the State of California

FOR THE COUNTY OF ALAMEDA

CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING, an unincorporated association, MASON MCDUFFIE, a California Corporation, BERKELEY BOARD OF REALTORS, a California non-profit association, BETTY GERITZ, MURIEL ROSENKRANZ and EVA FLOYSTRUP,
Plaintiffs,

vs.

CITY OF BERKELEY, CALIFORNIA, a a municipal corporation; THE BERKELEY CITY COUNCIL; THE BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION; PATRICIA DEVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER, DAVID B. ROSENTHAL, as members of the Berkeley Fair Campaign Practices Commission and DOES I through XX, inclusive,
Defendants.

NO. 493837-0

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

It appearing to the satisfaction of the Court, upon the reading of the verified complaint and declarations of the plaintiffs, and the Points and Authorities submitted in support thereof, that the case therein presented is a proper case for issuance of an order to show cause and a temporary restraining order as prayed for in said complaint and that unless a temporary restraining order issues plaintiffs will suffer irreparable injury before the matter can be heard on notice; now therefore

IT IS HEREBY ORDERED that defendants CITY OF BERKELEY, CALIFORNIA, a municipal corporation; BERKELEY CITY COUNCIL, THE BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION, PATRICIA DEVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASON, THOMAS DONOVAN, FAITH OTIS, DAVID B. ROSENTHAL and SANDY MILLER, as members of the BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION and DOES I through XX, inclusive, appear before this Court in Department 19 at the Courthouse located at 1221 Oak Street, Oakland, California, on April 12, 1977, at the hour of 2:00 p.m., then and there to show cause, if any they have, why a preliminary injunction should not be ordered restraining and enjoining said defendants, and each of them, and any and all persons acting on their behalf from enforcing or attempting to enforce, directly or indirectly, Section 602 of the Berkeley Election Reform Act of 1974 and any and all limits or restrictions on contributions to and/or expenditures by plaintiffs contained therein.

IT IS FURTHER ORDERED that defendants and each of them, and all persons acting on their behalf be restrained pending the hearing of this Order to Show Cause from enforcing or attempting to enforce against plaintiffs or their officers, agents or employees, directly or indirectly, Section 602 of the Berkeley Election Reform Act of 1974 and any and all limits or restrictions on contributions to and/or expenditures by plaintiffs therein contained insofar as they apply to the April 19, 1977, election concerning the initiative measure commonly known as Proposition B (the "Rent Control" measure).

DATED: April 6, 1977.

HAROLD B. HOVE

Judge of the Superior Court

DOBBS, DOYLE & NIELSEN
VIGO G. NIELSEN, JR., ESQ.
JAMES R. PARRINELLO, ESQ.
PETER A. BAGATELOS, ESQ.
Suite 2500, The Alcoa Building
One Maritime Plaza
San Francisco, California 94111
Telephone: (415) 362-1940
Attorneys for Plaintiffs

ENDORSED
FILED
Apr 18 1977
RENE C. DAVIDSON, *County Clerk*
By MAURINE EVANS, *Deputy*

In The Superior Court of the State of California

FOR THE COUNTY OF ALAMEDA

CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING, an unincorporated association, MASON McDUFFIE, a California corporation, BERKELEY BOARD OF REALTORS, a California non-profit association, BETTY GERITZ, MURIEL ROSENKRANZ and EVA FLOYSTRUP,
Plaintiffs,

vs.

CITY OF BERKELEY, CALIFORNIA, a municipal corporation; THE BERKELEY CITY COUNCIL; THE BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION; PATRICIA DeVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER, DAVID B. ROSENTHAL, as members of the Berkeley Fair Campaign Practices Commission and DOES I through XX, inclusive,
Defendants.

No. 493837-0

ORDER SUSTAINING APPLICATION FOR PRELIMINARY INJUNCTION

The application of plaintiffs for a Preliminary Injunction came on regularly to be heard on April 12, 1977, pursuant to the Temporary Restraining Order and Order to Show Cause issued on April 6, 1977. Vigo G. Nielsen, Jr., James R. Parrinello and Peter A. Bagatelos appeared as counsel for plaintiffs, and Michael Lawson appeared as counsel for all defendants.

The matter having been submitted on the pleadings, affidavits, declarations and memorandum of points and authorities on file herein; and proof having been made to the satisfaction of the Court and good cause appearing therefor:

IT IS HEREBY ORDERED that during the pendency of this action defendants, and each of them, and their agents, servants and employees, and all persons acting under, in concert with, or for them, shall be and they are hereby enjoined and restrained from enforcing or attempting to enforce, against plaintiffs:

(a) Section 602 of the Berkeley Election Reform Act of 1974 and any and all contribution limits or restrictions contained therein; and

(b) Section 604 of the Berkeley Election Reform Act of 1974 to require plaintiff committee (CARC) to pay into the Berkeley General Fund campaign contributions received between January 12, 1977 and January 20, 1977, in the approximate amount of $18,600.00.

Plaintiffs shall continue in effect the $2,500.00 undertaking previously filed with the court, during the pendency of this action.

Dated: April 12, 1977

JOHN P. SPARROW

John P. Sparrow
Judge of the Superior Court

DOBBS, DOYLE & NIELSEN
VIGO G. NIELSEN, JR., ESQ.
JAMES R. PARRINELLO, ESQ.
PETER A. BAGATELOS, ESQ.
One Maritime Plaza, Suite 2500
The Alcoa Building
San Francisco, California 94111
Telephone: (415) 362-1940
Attorneys for Plaintiffs

ENDORSED
FILED
Apr 27 1977
RENE C. DAVIDSON, *County Clerk*
A. CARNEY, *Deputy*

In The Superior Court of the State of California

FOR THE COUNTY OF ALAMEDA

CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING, an unincorporated association, MASON MCDUFFIE, a California Corporation, BERKELEY BOARD OF REALTORS, a California non-profit association, BETTY GERITZ, MURIEL ROSENKRANZ and EVA FLOYSTRUP,
Plaintiffs,

VS.

CITY OF BERKELEY, CALIFORNIA, a municipal corporation; THE BERKELEY CITY COUNCIL; THE BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION: PARTICIA DEVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER, DAVID B. ROSENTHAL, as members of the Berkeley Fair Campaign Practices Commission and DOES I through XX, inclusive,
Defendants.

NO. 493837-0

AMENDMENT TO COMPLAINT

Plaintiffs amend the complaint on file herein as follows:

A. By adding the following language after page 16, line 12:

FOURTH CAUSE OF ACTION

Declaratory Relief

1. Plaintiffs allege and incorporate herein by this reference each and every allegation contained in the First Cause of Action as though set out at length hereafter.

2. The April 19, 1977, election is now concluded and plaintiff CARC has accumulated a campaign debt of approximately $8,000.

3. Plaintiff CARC desires to solicit and collect further contributions from individuals and entities in excess of $250.00 to satisfy such campaign debts.

4. Plaintiff CARC is informed and believes that there are individuals and entities willing and able to make contributions in excess of $250.00 to assist in satisfying CARC's remaining campaign debts, but are unwilling to do so because the Berkeley Fair Campaign Practices Commission resolved to enforce the restrictions contained in Section 602.

5. Plaintiff CARC desires to solicit and collect contributions in excess of $250.00 from such persons.

6. Section 602 prohibits contributions in excess of $250.00 and therefore precludes CARC from obtaining such contributions unless and until Section 602 is declared invalid and unenforceable.

7. Wherefore, plaintiff CARC prays for judgment declaring that Section 602 of the Berkeley Election Reform Act of 1974 is unconstitutional, invalid and void, and that plaintiff CARC can accept individual contributions in excess of $250.00 to satisfy its remainding campaign debts.

B. By adding the following language after page 17, line 8;

7. For reasonable attorney's fees for violation of plaintiff's civil rights, pursuant to 42. U.S.C. § 1982, 42 U.S.C. § 1983 and 42 U.S.C. § 1988.

Dated: April 22, 1977

DOBBS, DOYLE & NIELSEN

By VIGO G. NIELSEN, JR.
Vigo G. Nielsen, Jr.
Attorneys for Plaintiffs

VERIFICATION

I am the Campaign Manager for plaintiff CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING (CARC) in the above entitled action; I have read the foregoing AMENDMENT TO COMPLAINT and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 25, 1977 at San Francisco, California.

DONALD SOLEM

Donald Solem

PROOF OF SERVICE BY MAIL
(1013a, 2015.5 C.C.P.)

I am a citizen of the United States and a resident of the County of San Francisco; I am over the age of eighteen years and not a party to the within above entitled action; my business address is Suite 2500, The Alcoa Building, One Maritime Plaza, San Francisco, California.

On April 26, 1977, I served the within AMENDMENT TO COMPLAINT on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States post office mail box at San Francisco, California, addressed as follows:

MICHAEL LAWSON, City Attorney
2171 McKinley Avenue, Room 220
Berkeley, California 94704

I, ARLENE OTANI, declare under penalty of perjury that the foregoing is true and correct.

Executed on April 26, 1977 at San Francisco, California.

ARLENE OTANI

Arlene Otani

MICHAEL LAWSON, City Attorney
2171 McKinley Avenue, Room 220
Berkeley, California 94704
Telephone: (415) 644-6380
Attorney for Defendants

Superior Court of California

COUNTY OF ALAMEDA

CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING, an unincorporated association, MASON McDUFFIE, a California Corporation, BERKELEY BOARD OF REALTORS, a California non-profit association, BETTY GERITZ, MURIEL ROSENKRANZ and EVA FLOYSTRUP,
Plaintiffs,

vs.

CITY OF BERKELEY, CALIFORNIA, a municipal corporation; THE BERKELEY CITY COUNCIL; THE BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION: PATRICIA DEVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER, DAVID B. ROSENTHAL, as members of the Berkeley Fair Campaign Practices Commission and DOES I through XX, inclusive,
Defendants.

No. 493837-0

ANSWER

Come now defendants CITY OF BERKELEY, CALIFORNIA; THE BERKELEY CITY COUNCIL; THE BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION: PATRICIA DEVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER, and DAVID B. ROSENTHAL, and answer the amended complaint on file as follows:

FIRST CAUSE OF ACTION

1. Defendants lack sufficient information and belief to be able to answer paragraphs 1, 2, 4, 11, 12, 13 and 14, and, based thereon, deny generally and specifically each and every allegation contained therein.

2. Defendants deny each and every allegation contained in paragraph 16.

3. Except as to lines 5 through 7 on page 10, defendants deny each and every allegation contained in paragraph 17.

4. Defendants deny each and every allegation contained in paragraph 19.

SECOND CAUSE OF ACTION

1. Defendants admit by non-answer, affirmatively deny or deny for lack of information or belief, the allegations contained in paragraph 1 to the same extent such allegations are set forth in the First Cause of Action.

THIRD CAUSE OF ACTION

1. Defendants admit by non-answer, affirmatively deny or deny for lack of information and belief, the allegations contained in paragraph 1 to the same extent such allegations are set forth in the First Cause of Action and re-alleged in the Second Cause of Action.

2. Defendants lack sufficient information and belief to be able to answer the allegations in lines 22 through 23 of paragraph 3 (page 12), and based thereon, defendants deny each and every allegation contained in lines 22 through 23.

3. Defendants admit to the allegations of paragraph 4 up to "prospectively" at line 6 (page 13) and deny the allegation thereafter set forth in said sentence. Defendants admit "such texts were publicly distributed on January 24, 1977."

4. Defendants lack sufficient information and belief to be able to answer the allegations set forth in paragraph 5, and based thereon, defendants deny each and every allegation contained therein.

5. Defendants lack sufficient information and belief to be able to answer the allegations set forth in lines 12 through 14 of paragraph 6 (page 14), and based thereon, defendants deny each and every allegation contained therein.

6. Defendants deny each and every, all and singular, allegation contained in paragraphs 7, 8 and 9.

FOURTH CAUSE OF ACTION

1. Defendants admit by non-answer, affirmatively deny or deny for lack of information and belief, the allegations contained in paragraph 1 to the same extent such allegations are set forth in First Cause of Action and re-alleged in the Second and Third causes of Action.

2. Answering paragraph 2, defendants admit the April 19, 1977 election is now concluded but lack sufficient information and belief to answer the allegation thereafter set forth, and based thereon, defendants deny such allegation.

3. Defendants lack sufficient information and belief to be able to answer the allegations set forth in paragraphs 3, 4 and 5, and based thereon, deny each and every allegation contained therein.

* * *

AFFIRMATIVE DEFENSE

As an affirmative defense, defendants assert the issues raised in each cause of action are now moot and no justifiable controversy exists.

WHEREFORE, defendants request that plaintiffs take nothing by their action and that the complaint be dismissed.

Dated: May 25, 1977

MICHAEL LAWSON
City Attorney

By MICHAEL LAWSON
Attorney for Defendants

CERTIFICATE OF SERVICE

ACTION NO. 493837-0

I am a citizen of the United States and a resident of Alameda County. I am over the age of eighteen years and not a party to the within above entitled action. My business address is 2171 McKinley Avenue, Room 220, Berkeley, California 94704. On May 25, 1977, I served a copy of the attached ANSWER by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States post office mail box at Berkeley, California, addressed as follows:

VIGO G. NIELSEN, JR., ESQ.
DOBBS, DOYLE & NIELSEN
One Maritime Plaza, Suite 2500
The Alcoa Building
San Francisco, California 94111

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated: May 25, 1977

FLORENCE COCHRAN

Florence Cochran

DOBBS & NIELSEN
VIGO G. NIELSEN, JR., ESQ.
JAMES R. PARRINELLO, ESQ.
PETER A. BAGATELOS, ESQ.
Suite 2500, The Alcoa Building
One Maritime Plaza
San Francisco, California 94111
Telephone: (415) 362-1940
Attorneys for Plaintiffs

ENDORSED
FILED
Aug 5 1977
RENE C. DAVIDSON, *County Clerk*
A. CARNEY, *Deputy*

In The Superior Court of the State of California

FOR THE COUNTY OF ALAMEDA

CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING, an unincorporated association, MASON MCDUFFIE, a California corporation, BERKELEY BOARD OF REALTORS, a California non-profit association, BETTY GERITZ, MURIEL ROSENKRANZ and EVA FLOYSTRUP,
Plaintiffs,

vs.

CITY OF BERKELEY, CALIFORNIA, a municipal corporation; THE BERKELEY CITY COUNCIL; THE BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION; PATRICIA DEVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER, DAVID B. ROSENTHAL, as members of the Berkeley Fair Campaign Practices Commission and DOES I through XX, inclusive,
Defendants.

No. 493837-0

NOTICE OF MOTION FOR SUMMARY JUDGMENT

TO DEFENDANTS CITY OF BERKELEY, ET AL. AND TO THE CITY ATTORNEY OF BERKELEY, MICHAEL LAWSON, THEIR ATTORNEY OF RECORD:

NOTICE IS HEREBY GIVEN that on August 17, 1977 at 2:00 P. M., or as soon thereafter as the matter can be heard, at the courtroom of Department 19 at 1225 Fallon, Oakland, California, plaintiffs will move the above-entitled Court for an order striking the answer herein and/or entering judgment for plaintiffs on the ground that Section 602 of the Berkeley Election Reform Act of 1974, as amended, is unconstitutional on its face.

Said motion will be made on the ground that there is no defense to the action, that there is no triable issue as to any material fact, and that plaintiffs are entitled to judgment as a matter of law.

Said motion will be based on this notice, the pleadings, records and files herein, and on the declarations of Donald Solem, Victor Stachura, and M. R. Griffin, and the memorandum of points and authorities served and filed herewith.

Dated: August 4, 1977

DOBBS & NIELSEN

By: VIGO G. NIELSEN, JR.
Vigo G. Nielsen, Jr.
Attorneys for Plaintiffs

PROOF OF SERVICE BY MAIL
(1013a, 2015.5 C.C.P.)

I am a citizen of the United States and a resident of the County of San Francisco; I am over the age of eighteen years and not a party to the within above entitled action; my business address is Suite 2500, The Alcoa Building, One Maritime Plaza, San Francisco, California.

On August 4, 1977, I served the within MOTION FOR SUMMARY JUDGMENT and NOTICE OF MOTION on the defendants in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States post office mail box at San Francisco, California, addressed as follows:

MICHAEL LAWSON, ESQ.
City Attorney
2171 McKinley Avenue, Room 220
Berkeley, CA 94704

I, ARLENE OTANI, declare under penalty of perjury that the foregoing is true and correct.

Executed on August 4, 1977 at San Francisco, California.

ARLENE OTANI
Arlene Otani

DOBBS & NIELSEN
VIGO G. NIELSEN, JR., ESQ.
JAMES R. PARRINELLO, ESQ.
PETER A. BAGATELOS, ESQ.
Suite 2500, The Alcoa Building
One Maritime Plaza
San Francisco, California 94111
Telephone: (415) 362-1940
Attorneys for Plaintiffs

ENDORSED
FILED
Aug 5 1977
RENE C. DAVIDSON, *County Clerk*
A. CARNEY, *Deputy*

In The Superior Court of the State of California

FOR THE COUNTY OF ALAMEDA

CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING, an unincorporated association, MASON McDUFFIE, a California corporation, BERKELEY BOARD OF REALTORS, a California non-profit association, BETTY GERITZ, MURIEL ROSENKRANZ and EVA FLOYSTRUP,
Plaintiffs,

vs.

CITY OF BERKELEY, CALIFORNIA, a municipal corporation; THE BERKELEY CITY COUNCIL; THE BERKELEY FAIRCAMPAIGN PRACTICES COMMISSION; PATRICIA DeVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER, DAVID B. ROSENTHAL, as members of the Berkeley FairCampaign Practices Commission and DOES I through XX, inclusive,
Defendants.

NO. 493837-0

MOTION FOR SUMMARY JUDGMENT

I

INTRODUCTION

This action was commenced on April 6, 1977, only 13 days prior to the April 19 Berkeley municipal elections. Plaintiffs initially sought—and obtained—a temporary restraining order and a preliminary injunction prohibiting defendants from enforcing or attempting to enforce Section 602 of the Berkeley Election Reform Act of 1974 against plaintiffs. In a nutshell, Section 602 prohibits the making of contributions exceeding $250 to committees supporting or opposing ballot measures on the Berkeley ballot.

There are really only two issues in dispute in this litigation:

1) Is Section 602 unconstitutional on its face; and

2) Assuming, *arguendo*, that Section 602 is valid, are defendants estopped from enforcing it against plaintiffs in light of particular events which occurred in the months prior to the April 19 election.

The latter issue presents questions of fact which cannot be resolved by this motion for summary judgment and which will require substantial discovery prior to full trial on the merits. However, that factual dispute is irrelevant and moot if Section 602 is invalid as a matter of law.

We believe and we believe all counsel will agree that a ruling on the validity of Section 602 at this time will resolve a fundamental issue of constitutional law and obviate the necessity for a time-consuming trial of secondary factual issues. For these reasons, plaintiffs bring the instant motion.

II

QUESTION PRESENTED

The only question before the Court at this time is whether Section 602 of the Berkeley Reform Act of 1974, as amended, is constitutionally infirm on its face. Section 602 reads as follows:

> "No person shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support of or in opposition to a measure to exceed two hundred and fifty dollars ($250)."

III

SUMMARY OF MATERIAL FACTS

Citizens Against Rent Control (CARC) is a duly organized campaign committee existing in accordance with Section 402 of the Berkeley Election Reform Act of 1974, as amended ("The Act"). CARC's primary objective and function was to organize opposition to and to seek the defeat of Measure B on the April 19, 1977 Berkeley Municipal Ballot. Measure B, if passed and to the extent legally enforceable, would have imposed a system of rent controls over certain types of residential housing in Berkeley. A copy of proposed Measure B is attached as Exhibit C to plaintiffs' complaint on file herein.

Section 602 prohibits individuals or entities from making, and campaign committees from soliciting or accepting, contributions exceeding $250 to a committee supporting or opposing the passage of any ballot measure.

Between January 12 and 24, 1977, CARC received a total of $18,600 in campaign contributions in excess of $250; such contributions included $5,000 from the California Association of Realtors, $1,000 from plaintiff Mason McDuffie, $5,000 from plaintiff Berkeley Board of Realtors, $5,000 from the Apartment Political Action Committee, $1,000 from the Miramonte Company, and $2,000 from the B/G Management Company. At a duly-held meeting on March 30, 1977, a majority of the Berkeley Fair Campaign Practices Commission voted that CARC's receipt of the aforementioned contributions (and others) violated Section 602 of the Act, and ordered that $18,600 in such contributions exceeding $250 be forfeited by CARC to the city.

The April 19 election was held and Measure B was soundly defeated. However, as a result of its extensive campaign efforts and this lawsuit, CARC accumulated a campaign deficit of $8,308.84, which amount remains outstanding. CARC desires to satisfy those obligations by soliciting and accepting contributions from previous supporters including those who contributed in excess of $250. CARC has been advised by some supporters who have already contributed $250 that they are willing and able to make further contributions and would do so immediately but for the unsettled situation concerning the validity of Section 602. (See Exhibits A, B & C).

IV

ARGUMENT

A. Plaintiffs' arguments in support of this motion are identical to those used in its Memorandum of Points and Authorities in support of its Application for Preliminary Injunction. For the Court's convenience, we attach and incorporate herein by reference pertinent pages (pages 2 through 14 and 18 through 51) of that Memorandum, as Appendix A hereto.

B. Since the filing of the aforementioned Memorandum, several relevant authorities have come to plaintiffs' attention. (pages 184-189 of the Clerk's transcript contain the Points and Authorities in Support of the Motion for Summary Judgment)

EXHIBIT A

DECLARATION OF DONALD L. SOLEM

I, DONALD L. SOLEM, declare:

1. I am the owner of Solem & Associates, a San Francisco bay area based firm which, among other things, specializes in the management of political campaigns, including ballot measure propositions.

2. The firm of Solem & Associates served as campaign manager for Citizens Against Rent Control/ Coalition For Fair Housing/No On B (CARC), a committee, registered with the City Clerk of Berkeley, which opposed and sought defeat of Measure B, a proposed Charter amendment to institute rent controls in Berkeley, on the April 19, 1977 Berkeley Municipal Ballot.

3. Section 602 of the Berkeley Election Reform Act of 1974 prohibits individuals or entities from making and campaign committees from soliciting or accepting contributions exceeding $250.00 to a committee supporting or opposing the passage of any ballot measure.

4. During the period January 12 through 24, 1977, CARC received a total of $18,600.00 in campaign contributions in excess of $250.00, which included $5,000.00 from plaintiff Berkeley Board of Realtors and $1,000.00 from plaintiff Mason McDuffie.

5. At its meeting on March 30, 1977, the Berkeley Fair Campaign Practices Commission voted that CARC's receipt of the aforementioned contributions, and others, violated Section 602 of the Act, and thereby ordered that $18,600.00 of such contributions exceeding $250.00 be forfeited by CARC to the City of Berkeley.

6. CARC therefore brought this suit to challenge the validity of Section 602 and the decision of the Berkeley Commission.

7. As a result of CARC's extensive campaign efforts in advocating the defeat of Measure B and the costs attendant to this lawsuit, CARC has accumulated a current campaign deficit of $8,308.84, which amount remains outstanding.

8. To meet these obligations, CARC desires to solicit and accept contributions from previous supporters, including those who contributed in excess of $250.00, to eliminate the deficit. Some supporters who have already contributed $250.00 have advised CARC that they are willing and able to make contributions to help eliminate the deficit and would do so immediately but for their concern over the undecided validity of Section 602.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: August 1, 1977

DONALD L. SOLEM

Donald L. Solem

EXHIBIT B

Berkeley Board of Realtors

1553 GROVE ST. • BERKELEY, CALIFORNIA 94709 • POST OFFICE BOX 1224, BERKELEY, CALIFORNIA 94701

DECLARATION

I, VICTOR STACHURA, certify:

1) I am President of the Berkeley Board of Realtors.

2) Members of this Berkeley Board of Realtors include many Realtors (brokers), Realtor-Associates (salesmen) who conduct business in the City of Berkeley.

3) This Board has long been involved with and concerned with the issue of rent control, which is an issue of widespread concern and will significantly affect the housing and real estate investment industry in the City of Berkeley in particular, and the entire State in general.

4) Citizens Against Rent Control, a committee registered with the Berkeley City Clerk's office, and organized to oppose a rent control measure which was submitted to the voters of Berkeley in the April 19, 1977 election, presented information and material to the voters which we believed fairly represented views similar to those of this Board with regard to the rent control issue.

5) We have been advised that in the process of communicating information to the public, Citizens Against Rent Control incurred various expenses which resulted in a present outstanding indebtedness in excess of $8,000.

6) In order to assist CARC to eliminate its outstanding indebtedness, this Board may desire to make a contribution in excess of $250 to CARC. However,

because of the present uncertainties regarding Section 602 of the Berkeley Election Reform Act, which imposes a $250 maximum contribution limitation to ballot measure committees, this Board is reluctant to make contributions in excess of $250. But for the existence of Section 602, this Board may make such a contribution.

I declare under penalty of perjury that the foregoing is true and corrent to the best of my knowledge and belief.

Dated: August 2nd 1977

VICTOR F. STACHURA

Victor F. Stachura, *President*

EXHIBIT C

DECLARATION

I, M. R. GRIFFIN, certify:

1) I am a partner of Mason-McDuffie Co.

2) Mason-McDuffie Co. has been active in the real estate business in Berkeley since 1887. It sells, exchanges, rents, manages, insures and finances real property in Berkeley and employs several hundred persons in its main office in Berkeley.

3) Citizens Against Rent Control (CARC), a committee registered with the Berkeley City Clerk's Office and organized to oppose a rent control measure which was submitted to the voters of Berkeley for the April 19, 1977 Berkeley Municipal ballot, presented informational views and facts regarding rent control to the voters similar to those held by Mason-McDuffie Co.

4) We have been advised that in the process of communicating information to the public, CARC incurred various expenses which resulted in a present outstanding indebtedness in excess of $8,000.

5) Mason-McDuffie Co. may wish to make a contribution in excess of $250 to CARC for purposes of assisting to eliminate the outstanding indebtedness incurred by that committee. However, because of the present uncertainties regarding Section 602 of the Berkeley Election Reform Act, which imposes a $250 maximum contribution limitation to ballot measure committees, Mason-McDuffie Co. is reluctant to make a contribution in excess of $250. But for the limitations imposed by Section 602, Mason-McDuffie Co. might make such a contribution.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED: August 2, 1977.

M. R. GRIFFIN

M. R. Griffin, *Partner*
MASON-MCDUFFIE CO.

MICHAEL LAWSON, City Attorney
2134 Grove Street
Berkeley, California 94704
Telephone: (415) 644-6380
Attorney for Defendant City of Berkeley

In The Superior Court of the State of California

FOR THE COUNTY OF ALAMEDA

CITIZENS AGAINST RENT CONTROL/COALITION FOR FAIR HOUSING, an unincorporated association, MASON MCDUFFIE, a California Corporation, BERKELEY BOARD OF REALTORS, a California non-profit association, BETTY GERITZ, MURIEL ROSENKRANZ AND EVA FLOYSTRUP,

Plaintiffs,

vs.

CITY OF BERKELEY, CALIFORNIA, a municipal corporation; THE BERKELEY CITY COUNCIL; THE BERKELEY FAIR CAMPAIGN PRACTICES COMMISSION: PATRICIA DEVITO, BETTY BENNETT, MERLIN EDWARDS, JOHN CHASEN, THOMAS DONOVAN, FAITH OTIS, SANDY MILLER, DAVID B. ROSENTHAL, as members of the Berkeley Fair Campaign Practices Commission and DOES I through XX, inclusive,

Defendants.

NO. 493837-0

ANSWER TO AMENDED COMPLAINT.

Defendants answer the amended complaint filed herein by Plaintiffs as follows:

1. With respect to Paragraph 1 of the Fourth Cause of Action, Defendants incorporate by reference their answer to each and every allegation contained in the First Cause of Action.

2. With respect to Paragraphs 2, 3, 4, and 5 of the Fourth Cause of Action, Defendants have insufficient information or belief to be able to answer such allegation and based thereon deny each and every allegation contained therein.

WHEREFORE, Defendants that Defendants take nothing by their complaint as amended, and that Defendants be awarded their costs of defending this action and such additional relief as the court deems appropriate.

Dated: August 22, 1977

MICHAEL LAWSON,
City Attorney

By: MICHAEL LAWSON
Attorney for Defendants

CERTIFICATE OF SERVICE

ACTION NO. 493837-0

I am a citizen of the United States and a resident of Alameda County. I am over the age of eighteen years and not a party to the within above entitled action. My business address is 2171 McKinley Avenue, Room 220, Berkeley, California 94704. On August 22, 1977, I served a copy of the attached ANSWER TO AMENDED COMPLAINT by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States post office mail box at Berkeley, California, addressed as follows:

VIRGO G. NIELSEN, ESQ.
DOBBS & NIELSEN
One Maritime Plaza, Suite 2500
The Alcoa Building
San Francisco, California 94111

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated: August 22, 1977

JOYCE M. LOPES

Joyce M. Lopes

DOBBS & NIELSEN
VIGO G. NIELSEN, JR., ESQ.
JAMES R. PARRINELLO, ESQ.
PETER A. BAGATELOS, ESQ.
Suite 2500, The Alcoa Building
One Maritime Plaza
San Francisco, California 94111
Telephone: (415) 362-1940
Attorneys for Plaintiffs

ENDORSED
FILED
Nov 17 1977
RENE C. DAVIDSON, *County Clerk*
By: G. L. Robson, *Deputy*

Entry Date Nov 18 1977
Vol 49: Page 2: (Reel)
RENE C. DAVIDSON, *County Clerk*
By: JEAN PERRAMO, *Deputy*

In The Superior Court of the State of California

CITIZENS AGAINST RENT CONTROL/ COALITION FOR FAIR HOUSING, an unincorporated association, et al.,
Plaintiffs,

vs.

CITY OF BERKELEY, CALIFORNIA, a municipal corporation; et al.,
Defendants.

No. 493837-0

STIPULATION AND ORDER

STIPULATION

IT IS HEREBY STIPULATED by and between the parties hereto that Page Two (2), Line Two (2) of the Judgment entered herein on September 29, 1977, at Page Three (3) of Judgment Book 493, and reading as follows: "Section 9 of the California Constitution, and that plaintiffs'..." may be corrected to conform to the Judgment actually rendered by the Honorable John P. Sparrow, Judge of the Superior Court on said date, and to read as follows: "Section 2 of the California Constitution, and that plaintiffs'..."

It is further stipulated by and between the parties hereto that Page Two (2), Line Thirteen (13), of the Order Granting Summary Judgment for Plaintiffs signed on September 27, 1977 by the Honorable John P. Sparrow, Judge of the Superior Court, reading as follows: "Constitution and Article I, Section 9 of the California . . ." may be corrected to conform to the Order Granting Summary Judgment for Plaintiffs actually rendered by Judge Sparrow to read as follows: "Constitution and Article I, Section 2 of the California . . .".

It is further stipulated that the aforedescribed correction of said Judgment and Order Granting Summary Judgment for Plaintiffs may be entered *nunc pro tunc* to appear of record as the respective dates said Judgment was originally made and entered and said Order was originally signed.

Dated: October 21, 1977.

PETER A. BAGATELOS

Peter A. Bagatelos
Attorneys for Plaintiffs

MICHAEL LAWSON

Michael Lawson
Attorneys for Defendants

ORDER

IT IS SO ORDERED.

Dated: Nov 17 1977

JOHN P. SPARROW

John P. Sparrow
Judge of the Superior Court

MICHAEL LAWSON, City Attorney
CHARLES O. TRIEBEL, JR., Attorney at Law
2134 Grove Street, Second Floor
Berkeley, California 94704
Telephone: (415) 644-6380

FILED
Dec 1 1977
RENE C. DAVIDSON, *County Clerk*
By: NANCI E. ALVAREZ, [sic]
Deputy

Attorneys for Defendants and Appellants

Superior Court of California

COUNTY OF ALAMEDA

CITIZENS AGAINST RENT CONTROL, et al.,
Plaintiffs and Respondents,
vs.
CITY OF BERKELEY, et al.,
Defendants and Appellants.

No. 493837-0

NOTICE OF APPEAL AND NOTICE TO PREPARE REPORTER'S AND CLERK'S TRANSCRIPTS

To Plaintiffs and Respondents and their attorneys of record, Dobbs & Nielson [sic], and to the Clerk of the above-entitled court:

NOTICE IS HEREBY GIVEN that defendants appeal from the whole of every portion of the judgment made and entered in the above-entitled action on September 29, 1977, in Judgment Book 493 at page 3, adverse to defendants and in favor of plaintiffs, and that defendants desire to present their appeal by way of a Reporter's transcript and Clerk's transcript as provided by Rules 4 and 5 of the California Rules of Court.

The Clerk is hereby requested to cause to be prepared a complete Reporter's transcript of the oral proceedings had and taken in connection with the hearings held in Department 19 on on April 12, 1977 and August 24, 1977.

The Clerk is likewise requested to prepare a complete Clerk's transcript and to include therein the following:

1. Complaint for Injunctive and Declaratory Relief and Exhibits and Declaration thereto.
2. Memorandum of Points and Authorities in Support of Application for Injunctive and Declaratory Relief.
3. Temporary Restraining Order and Order to Show Cause.
4. Defendants' Memorandum of Points and Authorities in Opposition to Preliminary Injunction.
5. Declaration of Edythe Campbell.
6. Declaration of Michael Lawson.
7. Order Sustaining Application for Preliminary Injunction.
8. Amendment to Complaint.
9. Answer.
10. Notice of Motion for Summary Judgment.
11. Motion for Summary Judgment.
12. Answer to Amended Complaint.
13. Defendants' Memorandum of Points and Authorities in Opposition to Motion for Summary Judgment.
14. Order Granting Summary Judgment for Plaintiffs.
15. Judgment.
16. Clerk's Notice of Entry of Judgment.
17. Stipulation and Order of November 17, 1977.

Dated: December 1, 1977

MICHAEL LAWSON,
City Attorney
CHARLES O. TRIEBEL, JR.,
Attorney at Law

By MICHAEL LAWSON
Attorneys for Defendants and Appellants

CERTIFICATE OF SERVICE

ACTION NO. 493837-0

I am a citizen of the United States and a resident of Alameda County. I am over the age of eighteen years and not a party in the within above entitled action. My business address is 2134 Grove Street, Second Floor, Berkeley, California 94704. On December, 1977, I served a copy of the attached NOTICE OF APPEAL AND NOTICE TO PREPARE REPORTER'S AND CLERK'S TRANSCRIPTS by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States post office mail box at Berkeley, California, addressed as follows:

VIGO G. NIELSON, JR., ESQ.
Dobbs & Nielsen
Suite 2500, The Alcoa Building
One Maritime Plaza
San Francisco, California 94111

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated: December 1, 1977

HELEN FINNEGAN

Helen Finnegan

FILED
Dec 2 1977
RENE C. DAVIDSON, *County Clerk*
By: NANCI E. ALVAREZ, *Deputy*

Superior Court Of California, County Of Alameda

CITIZENS AGAINST RENT CONTROL *Plaintiff(s)*	**Case Number 593827-0**
VS	**Notice To Attorney In Re Notice Of Appeal**
CITY OF BERKELEY, et al *Defendant(s)*	

To:

Respondent

In compliance with RULES ON APPEAL adopted by the Judicial Council, this is to inform you that notice of appeal in the above matter was filed: December 1, 1977.

RENE C. DAVIDSON, County Clerk and Clerk of the Superior Court of the State of California for the County of Alameda

By NANCI E. ALVAREZ
Deputy

CERTIFICATE OF MAILING

I do hereby certify that, on December 2, 1977, I mailed copies of the above notice, as indicated below, by depositing them enclosed in sealed envelopes with postage thereon fully prepaid, in the United States Post Office at Oakland, California.

VIGO G. NEILSEN, JR.
Suite 2500, The Alcoa Bldg.
One Maritime Plaza
San Francisco, CA 94111

RENE C. DAVIDSON,
County Clerk

By: NANCI E. ALVAREZ
Deputy